

ESTTA Tracking number: **ESTTA290067**

Filing date: **06/16/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91176791
Party	Defendant MATTEL, INC.
Correspondence Address	Lawrence Y. Iser, Esq. Kinsella Weitzman Iser Kump & Aldisert LLP 808 Wilshire Blvd., Suite 300 Santa Monica, CA 90401 UNITED STATES CFitzgerald@kwikalaw.com
Submission	Testimony For Defendant
Filer's Name	Chad R. Fitzgerald
Filer's e-mail	cfitzgerald@kwikalaw.com
Signature	/crf/
Date	06/16/2009
Attachments	Bouman decl.pdf (4 pages)(151290 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No. 78/751,105
Published for Opposition in the OFFICIAL GAZETTE on December 12, 2006

UMG RECORDINGS, INC.

Opposition No.: 91176791

Opposer

v.

MATTEL, INC.

Applicant

TRIAL DECLARATION OF CHRISTOPHER BOUMAN

CHRISTOPHER BOUMAN declares under penalty of perjury as follows:

1. I am employed by Applicant Mattel, Inc. ("Mattel"). I have personal and firsthand knowledge of the facts set forth in this declaration, and if called as a witness would and could testify competently to these facts under oath.
2. I was employed by Mattel from 1994 to approximately 1997, from 1998 to approximately 2001, and from July 2007 the present. I currently work as a Senior Marketing Manager in Mattel's Hot Wheels® ("HOT WHEELS") Adult/Collector division.
3. Mattel produces a line of two-car collector packs called "Hot Wheels 100%." I oversee marketing for the Hot Wheels 100% line of products. Hot Wheels 100% products are

sold as two toy cars in a clear plastic case. The toy cars in the Hot Wheels 100% line are highly detailed and feature opening hoods and doors, rubber tires, and detailed paint. They are intended to be very precise 1:64 ratio replicas of the cars they model. The Hot Wheels 100% line is marketed to the adult collector market, typically males aged 18 to 42. The suggested retail price for a Hot Wheels 100% two-pack is \$19.99.

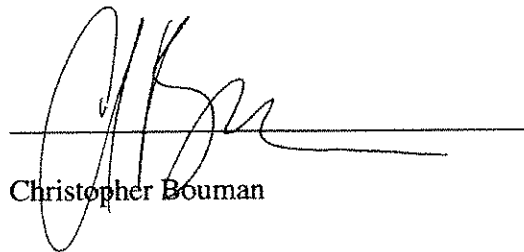
4. In 2007, in addition to a basic line of five Motown Metal HOT WHEELS toys (discussed in the Declaration of Raymond Adler submitted concurrently herewith), Mattel produced a series of cars within the Hot Wheels 100% line called "Motown Metal." The two toy cars in the Motown Metal series were a 1970 Ford Mustang Boss 429 and a 1969 Chevrolet Camaro. These two cars are commonly referred to as "muscle cars" in the car fan and HOT WHEELS collector communities. The Motown Metal series of Hot Wheels 100% was sold in 2007 exclusively at Kmart stores and at Mattel's toy store located in its corporate headquarters in El Segundo, California.

5. As part of my duties at Mattel, I have attended both car shows and HOT WHEELS collectors' conventions and have interacted with both car enthusiasts and adult HOT WHEELS collectors. Furthermore, Mattel conducts marketing studies and consumer research into the buying habits of HOT WHEELS collectors. The adults who buy Hot Wheels 100% products are typically car "fanatics" and, as such, are very knowledgeable about cars and automotive history. From my personal experience talking with car fans and HOT WHEELS adult collectors, "Motown" is used synonymously with the city of Detroit, Michigan. Such collectors are aware that the muscle cars depicted in the Motown Metal series, and muscle cars in general, were manufactured by the "Big Three" American automakers (General Motors, Ford, and Chrysler). In fact, Ford produced the 1970 Mustang Boss 429 that is the model for one of

the HOT WHEELS toy cars contained in the Hot Wheels 100% Motown Metal product, and Chevrolet is a brand owned by General Motors, which produced the 1969 Camaro that is the model for the other HOT WHEELS toy car contained in the Hot Wheels 100% Motown Metal product.

6. Car fans, including adult HOT WHEELS collectors, know the Big Three Detroit automakers and know Detroit muscle cars. Adult HOT WHEELS collectors tend to be choosy about their purchases of HOT WHEELS. They tend to research their purchases, ultimately deciding on an individual toy car because of the level of detailing in a collector model, because the original car on which the toy is modeled appeals to them, or to round out or complete a collection. Such adult collectors, who are the target demographic for the Hot Wheels 100% products, would associate "Motown Metal" with the city of Detroit and its identity as the center of American car manufacturing.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on June 12, 2009, at El Segundo, California.



Christopher Bouman

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Trial Declaration of Christopher Bouman has been served on counsel for Opposer UMG Recordings, Inc. through ESTTA on June 16, 2009.

/crf/

Chad R. Fitzgerald